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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Numbering Resource Optimization

)
) CC Docket No. 99-200 /
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To: The Commission

**PETITION OF XO COMMUNICATIONS, INC., FOR TEMPORARY WAIVER
OF DEADLINE IN 47 C.F.R. § 52.15(f)(6)**

Pursuant to Section 1.3 of the Commission's Rules, 47 C.F.R. § 1.3, XO Communications, Inc. ("XO") hereby petitions the Commission for a temporary waiver of the upcoming deadline set forth in Section 52.15(f)(6) of the Commission's Rules, 47 C.F.R. § 52.15(f)(6), regarding the periodic filing of Numbering Resource Utilization/Forecasting (NRUF) Reports. As XO will discuss herein, XO has recently experienced severe data corruption in converting its databases, rendering it impossible for XO to retrieve and correctly categorize its numbering data by February 1, 2001. Accordingly, XO respectfully requests that the Commission temporarily waive this deadline, for one month, and permit XO to file its upcoming forecasting and utilization reports by March 1, 2001.

Section 52.15(f)(6) requires that "[r]eporting carriers shall file forecast and utilization reports semi-annually on or before February 1 for the preceding reporting period ending on December 31, and on or before August 1 for the preceding reporting period ending on June 30." These NRUF reports require that carriers provide detailed information on six categories of number utilization: Assigned, Intermediate, Reserved, Aging, Administrative, and Available numbers. Mandatory reporting began last year on September 15, 2001 after the Commission

extended the August 1 deadline for all carriers based on various petitions and requests for extensions of time.¹ The next such filing date is February 1, 2001.

Due to unforeseen and unanticipated circumstances, XO will be unable to complete the upcoming report by the February 1 due date. XO is currently upgrading its back-office computer systems. As part of this process, XO is replacing its current numbering administration database with a system designed to assist reporting compliance efforts. On January 12, 2001, during the conversion process, XO's numbering data became corrupted, rendering it totally useless for any purpose. As a result of this data corruption, XO lost access to all of the disaggregated information that it needs in order to prepare its semi-annual numbering report. XO currently has eight fulltime employees and two outside contract employees in its numbering group working in an effort to manually reconstruct the data necessary to prepare the report, but this is a labor intensive and time-consuming process. Even with these efforts underway, XO will be unable to meet the February 1 due date.

Under § 1.3 of its rules, 47 C.F.R. § 1.3, the Commission has the discretion to waive application of any of its rules for good cause shown. Federal courts have recognized that an "agency's discretion to proceed in difficult areas through general rules is intimately linked to the existence of a safety valve procedure for consideration of an application for exemption based on special circumstances."² A waiver procedure is needed as a safety valve because application of a general rule may not be in the public interest if extended to a party in circumstances where the waiving the rule proposal "will not undermine the policy, served by the rule, that has been

¹ *Numbering Resource Optimization*, FCC 00-280, released July 31, 2000.

² *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972).

adjudged in the public interest.”³ The Commission must therefore “take a ‘hard look’ at applications for waiver and must consider all relevant factors.”⁴

Good cause exists for granting the requested waiver. Based on the unanticipated loss of data and the difficulty of reconstructing the lost information, it is impossible for XO to retrieve and correctly categorize its numbering resource data within the remaining time period before February 1. XO is, however, taking all reasonable steps within its power to reconstruct the data and prepare the report as promptly as possible. Moreover, XO complied with the Commission’s September 15, 2001 deadline last year and timely submitted its NRUF Report to Neustar, the North American Numbering Plan Administrator (“NANPA”). XO had every intention of timely filing its upcoming NRUF Report and would have done so but for the database corruption problem that it encountered.

³ *Id.*

⁴ *Part 68 Waiver Requests of Telephone Equipment Supply, Inc., Casio Communications, Inc., Tandy Corporation, Atlinks USA, Inc., Matsushita Electric Corporation of America, Vtech Communications Limited, Cidco Incorporated, Atlinks USA, Inc., Atlinks USA, Inc.*, 2000 FCC LEXIS 2702 (May 23, 2000).

Therefore, for good cause shown, XO respectfully requests that the Commission waive its February 1, 2001 deadline for the NRUF Report for one month, until March 1, 2001.

Respectfully submitted,
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